

SOUTH CAROLINA
BOARD OF ARCHITECTURAL EXAMINERS

Division of Professional and Occupational Licensing Department of
Labor, Licensing and Regulation



Architectural Statutes and Regulations

CHAPTER 3

Statutes Revised June 2008
Regulations Revised June 2010

Title 40 - Professions and Occupations
CHAPTER 3.
ARCHITECTS

SECTION 40-3-5. Applicability of professional licensing statutes.

Unless otherwise provided in this chapter, Article 1, Chapter 1 applies to architects; however, if there is a conflict between this chapter and Article 1, Chapter 1, the provisions of this chapter control.

SECTION 40-3-10. Board of Architectural Examiners created.

(A) There is created the Board of Architectural Examiners under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to regulate the practice of architecture in South Carolina.

(B) The Board of Architectural Examiners consists of six persons. One must be a professor of architecture in a university or college controlled by the State who also must be an architect registered in the State of South Carolina, four must be architects engaged in the practice of architecture in this State, and one must be a representative of the general public. Members serve terms of five years and until their successors are appointed and qualify. No member may serve more than two consecutive full terms, except the professor of architecture member. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(C) Nominations for appointment to the board may be submitted to the Governor from the board or any individual, group, or association.

SECTION 40-3-20. Definitions.

(1) "Architect" means an individual who, by reason of the individual's general knowledge of the principles of architecture acquired by professional education and practical experience, is qualified to engage in the practice of architecture as attested by the individual's registration as an architect.

(2) "Board" means the Board of Architectural Examiners.

(3) "Firm" means a business entity functioning as a partnership, limited liability partnership, professional association, professional corporation, business corporation, limited liability company, or other firm association which practices or offers to practice architecture.

(4) "Full authority" means that amount of authority granted to a regularly employed individual in unrestricted, unchecked, and unqualified command of the architectural practice of a firm.

(5) "Individual" means a single human being.

(6) "Practice of architecture" means a service or creative work requiring architectural education, training, and experience and the application of the principles of architecture and related technical disciplines to the professional services or creative work as consulting, evaluating, planning, designing, specifying, coordinating of consultants, administration of contracts, and reviewing of construction for the purpose of assuring compliance with the specifications and design, in connection with a building or site development.

(7) "Professional degree" means the successful completion of a National Architectural Accrediting Board accredited degree in architecture.

(8) "Responsible charge" means direct control and personal supervision of the practice of architecture.

(9) "Emeritus architect" means an architect who has been registered for ten consecutive years or longer and who is sixty-five years of age or older and who has retired from active practice.

(10) "Retired from active practice" means not engaging or offering to engage in the practice of architecture as defined in this section.

(11) "Intern Architect" means a person who:

(a) has completed a NAAB accredited first professional degree and is eligible in all respects for licensure through examination;

(b) is currently enrolled in and actively participating in the Intern Development Program or who has completed the Intern Development Program; and

(c) is employed by a firm which is lawfully engaged in the practice of architecture in this State.

A person may use the title "Intern Architect" only in connection with the person's employment with the firm in which the person is an intern. The title may not be used to advertise or offer to the public that the person is performing or offering to perform architectural services, and the person may not include himself in any listing of architects or in any listing of persons performing architectural services. The person may use a business card identifying himself as an 'Intern Architect', if the business card also includes the name of the architectural firm in which the person is an intern.

SECTION 40-3-30. Licensing, certificate of authorization, and registration requirements.

(A) No individual may engage in the practice of architecture without a license issued in accordance with this chapter. An individual is considered to engage in the practice of or offer to engage in the practice of architecture who in any manner represents himself to be an architect or who performs or holds himself out as able to perform any architectural service or other services recognized by educational authorities as architecture.

(B) Only an individual licensed under this chapter may use the title "architect". An individual assuming the title of architect or engaging in the practice of architecture in this State must be skilled in the principles of design and construction so that the individual may be entrusted with the design and review of construction of buildings without undue risk to the public safety. Before assuming the title "architect" or undertaking the work, the individual shall have a certificate of registration from the board.

(C) A firm offering to engage in the practice of architecture in this State must have a certificate of authorization issued by the board before undertaking architectural work. Each firm must employ one or more architects registered in this State who are designated as being in full authority and responsible charge of the architectural practice. Additionally, all personnel of the firm who act in its behalf as architects in this State must be registered under this chapter and must hold a current registration. If there is a change in ownership, management, or the architect in responsible charge during the year, the change must be filed with the board within thirty days.

(D) It is unlawful for an individual or firm to engage in the practice of architecture in this State, to use the title "architect", or to use or display any title, sign, word, card, advertisement, or other device or method to indicate that the individual or firm engages in or offers to engage in the practice of architecture or is an architect, without being registered as an architect or firm.

SECTION 40-3-50. Administrative support for board; fees.

(A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40-1-50.

(B) Fees for examination, licensure, renewal, and other assessments must be established by the board in regulation. Applicants must be notified of the fee amount before payment.

SECTION 40-3-60. Adoption of rules governing board proceedings; officers; promulgation of regulations; seal.

The board may adopt rules governing its proceedings and shall elect a chairman, vice-chairman, and secretary who shall serve a term of one year. The board may promulgate regulations necessary to carry out the provisions of this chapter and shall adopt a seal with which all its official documents must be sealed.

SECTION 40-3-70. Additional powers and duties of board.

In addition to the powers and duties provided for in this chapter, the board has those powers and duties set forth in Section 40-1-70.

SECTION 40-3-80. Investigation of fitness to practice or complaint charging violation; power of board to issue subpoenas, administer oaths, etc.

(A) If the director of the Department of Labor, Licensing and Regulation or the board has reason to believe that an individual or firm has become unfit to engage in the practice of architecture or has violated a provision of this chapter or a regulation promulgated under this chapter or if an individual files a written complaint with the board or the director of the Department of Labor, Licensing and Regulation, charging an individual or firm with the violation of a provision of this chapter or a regulation promulgated under this chapter, the director or board may initiate an investigation.

(B) The board or a member of the board may issue subpoenas to compel the attendance of witnesses and the production of documents and also may administer oaths, take testimony, hear proofs, and receive exhibits in evidence for all purposes required in the discharge of duties under this chapter.

SECTION 40-3-90. Hearing.

Any hearing that is conducted as a result of an investigation must be conducted in accordance with Section 40-1-90.

SECTION 40-3-100. Enjoining violations of chapter.

In addition to other remedies provided in this chapter or Article 1, Chapter 1, the board in accordance with Section 40-1-100 also may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

SECTION 40-3-110. Restriction of authorization to practice.

The board may cancel, fine, suspend, revoke, or restrict the authorization to practice architecture of an individual who has had a license to practice a profession or occupation regulated under Title 40 canceled, revoked, or suspended or who has otherwise been disciplined.

SECTION 40-3-115. Jurisdiction over actions of licensees.

The board has jurisdiction over the actions of licensees and former licensees as provided in Section 40-1-115.

SECTION 40-3-120. Fines; public knowledge of finding of guilt.

(A) The board may impose a civil fine of up to two thousand dollars for each violation of a provision of this chapter or a regulation promulgated under this chapter; however, the total fines may not exceed ten thousand dollars.

(B) A final order of the board finding that a registrant is guilty of any offense charged in a formal accusation becomes public knowledge except for a final order dismissing the accusation or imposing a private reprimand.

SECTION 40-3-130. Grounds for denial of license.

As provided for in Section 40-1-130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

SECTION 40-3-140. Denial of license based on prior criminal record.

A license may be denied based on a person's prior criminal record only as provided in Section 40-1-140.

SECTION 40-3-150. Surrender of license.

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40-1-150.

SECTION 40-3-160. Review of decision.

A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160.

SECTION 40-3-170. Costs.

A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

SECTION 40-3-180. Collection of costs and fines.

All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180.

SECTION 40-3-190. Confidentiality of investigations and proceedings.

Investigations and proceedings conducted under this chapter are confidential and all communications are privileged as provided in Section 40-1-190.

SECTION 40-3-200. Penalties.

A person who engages in or offers to engage in the practice of architecture in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than fifty thousand dollars.

SECTION 40-3-210. Petition for injunctive relief.

The Department of Labor, Licensing and Regulation, on behalf of the board and in accordance with Section 40-1-120, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.

SECTION 40-3-230. Registration certificate not transferable; review of applications for admission to practice; license qualifications.

(A) The privilege of engaging in the practice of architecture is a personal privilege based upon the qualifications of the individual and evidenced by the person's registration certificate which is not transferable.

(B) The board shall review the applications of all applicants for admission to practice architecture. The review shall consist of an inquiry into the record, character, education, experience, knowledge, and qualifications of the applicant. An applicant approved by the board as qualified must take the National Council of Architectural Registration Boards Architect Registration Examination (A.R.E.).

(C) To be licensed as an architect, an individual must:

(1) have a professional degree in architecture from a school or college program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB). The school or program must be accredited by NAAB or CACB not later than two years after the applicant's graduation. Foreign-educated applicants who do not hold an accredited degree from either accrediting body may have their educational credentials evaluated by an organization approved by the board to determine if their foreign degree is equivalent to the required professional degree in architecture. Additionally, foreign-educated applicants must satisfy National Council of Architectural Registration Boards' general educational requirements;

(2) have satisfactorily completed the training requirements established by the National Council of Architectural Registration Boards (NCARB) for the Intern Development Program (IDP). Changes in the program subsequently adopted by the board do not affect those persons currently enrolled in a previously adopted IDP program;

(3) have attained a passing score on all subject areas of the NCARB Architect Registration Examination (A.R.E.). Subject areas may include, but are not limited to, predesign, site design, building design, structural technology, materials and methods of construction, mechanical, plumbing, electrical, acoustical, life safety systems, and construction documents and services.

(D) An applicant may not be licensed as an architect if the individual has been convicted of a felony or a crime of moral turpitude, misstated or misrepresented any fact in connection with the application, violated any of the rules of registrant conduct set forth in the law or regulations, or practiced architecture without being registered. However, if an applicant has committed any of these acts, the board may register the applicant on the basis of suitable evidence of reform.

SECTION 40-3-240. Application for licensure; examination; credits from other jurisdictions.

(A) An application for licensure must be made on board application forms. A completed application signed and sworn to by the applicant must be filed with the board office and must be accompanied by all applicable fees. No application may be considered until the fees have been paid. Application fees are nonrefundable.

(B) The Architectural Registration Examination must be administered in a format and manner prescribed by the National Council of Architectural Registration Boards (NCARB) to all applicants for initial licensure. Applicants must pass all subject areas within the time prescribed by the National Council of Architectural Registration Boards (NCARB). Scores for the individual subject areas must not be averaged.

(C) An applicant must satisfy the requirements of Section 40-3-230(C)(1) and must be currently enrolled and actively participating in the Intern Development Program in order to be approved by the board to take the Architectural Registration Examination. Once an applicant has been approved to take the examination, any subsequent changes in the education or experience requirements do not affect the applicant's eligibility to take the examination.

(D) The board may accept transfer credits for individual subject areas of the examination passed by the applicant from another jurisdiction.

SECTION 40-3-250. Renewal of license.

(A) An individual and firm licensed under this chapter shall satisfy license renewal requirements as established by the board in regulation, which must include continuing education requirements for individuals. An individual shall complete a minimum of twelve continuing education hours annually in topics related to safeguarding health, safety, and welfare. Emeritus architects are not required to meet continuing education requirements. Individuals and firms annually shall pay the required renewal fee on a date set by the board in order to continue practicing architecture in South Carolina.

(B) Both individual and firm certificates may be renewed at any time within one year from the date of expiration upon payment of the established fee and a penalty of fifty dollars during the first thirty days and an additional one hundred dollars thereafter during the year.

(C) If an individual or firm fails to renew within one year from the date of expiration, the certificate may be reissued upon submission of a new application accompanied by the application fee and approval by the board.

(D) Emeritus architects who wish to return to active practice shall complete continuing education requirements for each exempted year not to exceed two years. Applicable fees also must be paid.

(E) Registrants must comply with continuing education audit deadlines and requirements.

SECTION 40-3-255. South Carolina Architecture Education and Research Fund established.

(A) The department, at the board's request, may allocate up to ten dollars of each renewal fee to the South Carolina Architecture Education and Research Fund, which must be established as a separate and distinct account and used exclusively for:

(1) advancement of education and research for the benefit of individuals and firms licensed under this chapter and for architectural interns;

(2) analysis and evaluation of factors which affect the architecture profession in this State; and

(3) dissemination of the results of the research.

(B) The board shall submit to the Chairmen of the House and Senate Labor, Commerce and Industry Committees by August first of each year a report on how the funds were expended for the preceding fiscal year.

SECTION 40-3-260. Registration of architects registered in another state, territory or foreign country.

An architect registered in another state, territory, or foreign country, having standards of registration equal to those in this State, may be registered upon a satisfactory showing of character and record only.

SECTION 40-3-270. Certificate of authority.

(A) A firm desiring a certificate of authorization shall file with the board an application on forms provided by the board and pay an application fee. Before a certificate of authorization may be issued to an out-of-state business or professional corporation, the corporation must be approved to transact business in this State. A copy of the approved certificate of authority issued by the State must be filed with the board application.

(B) A firm must maintain on file in the board office the name of the individual in full authority and responsible charge and written evidence of authority. Failure to provide accurate and timely information may constitute a violation of this subsection.

(C) For the purpose of this chapter, a sole proprietorship means a business in which one or more registered architects are engaged as employees; however, the practice must be conducted under the name registered with the board as an individual (i.e., John Doe, Architect). Any other practice name, i.e., Doe & Company, or Doe & Associates, requires a certificate of authorization to practice.

(D) If a South Carolina firm seeks to register under a name referring to persons rather than a trade name, the persons referred to in the firm's name must be licensed as individual architects, engineers, land surveyors, or landscape architects in this State.

(E) If an out-of-state firm seeks to register under a name referring to persons rather than a trade name, the persons referred to in the firm's name must be licensed as individual architects, engineers, land surveyors, or landscape architects in this State or in another state or jurisdiction.

(F) The requirement to obtain a certificate of authorization applies to associations for one or more projects but does not apply to an out-of-state firm or individual retained by a registered South Carolina architect as a consultant only.

(G) A registered architect practicing in his name who does not employ a registered architect is not required to obtain a certificate of authority.

SECTION 40-3-280. Seal.

(A) Every architect and firm practicing in this State shall have a seal containing the name, the place of business, and the words "Registered Architect, State of South Carolina" with which they shall seal all drawings, prints, and specifications for use in their profession.

(B) The seal of the individual architect in responsible charge, as well as the seal of the firm, must appear on each print of the drawings and the index sheet, or sheets, of each set of specifications offered to secure a building permit and one record set for use on the construction site. The required seal identification may be a rubber stamp impression placed on original drawings and specification copy. The architect in responsible charge shall affix his signature over his seal. An electronic seal and signature may be used in lieu of an original seal and signature by applicable policy or regulation.

SECTION 40-3-290. Exceptions from coverage of chapter.

(A) Nothing in this chapter prohibits a general contractor or a home builder from the preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions used to detail or illustrate a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements of this chapter.

(B) Nothing in this chapter prevents or affects the practice of any other legally recognized profession.

(C) If the drawings and specifications are signed by the authors with the true title of their occupations, this chapter does not apply to the preparations of plans and specifications for:

(1) a building which is to be used for farm purposes only;

(2) a building less than three stories high and containing fewer than five thousand square feet of total floor area except buildings of assembly, institutional, educational, and hazardous occupancies as defined by the Standard Building Code, regardless of area;

(3) a detached single-family or two-family dwelling, as defined in Group R3 of the Standard Building Code, regardless of size, with each unit having a grade level exit and sheds, storage buildings, and garages incidental to the dwelling;

(4) alterations to a building to which this chapter does not apply, if the alterations do not increase the areas and capacities beyond the limits of this chapter or affect the structural safety of the building.

(D) Nothing in this chapter prevents or affects the practice of engineering, as defined in Chapter 22 of Title 40, or architectural work incidental to the practice of engineering.

SECTION 40-3-300. Prohibition from entering into contract for professional services on any basis other than direct negotiations; exceptions.

An architect may not enter into a contract for professional services on any basis other than direct negotiation thereby precluding participation in any system requiring a comparison of compensation. However, an architect may state compensation to a prospective client in direct negotiation where architectural services necessary to protect the public health, safety, and welfare have been defined.

SECTION 40-3-310. Service of process on nonresident architect.

(A) Service of a notice provided for by law upon a nonresident architect who has been admitted to the practice of architecture or upon a resident architect who, having been admitted, subsequently becomes a nonresident or after due diligence cannot be found at his usual abode or place of business in this State, may be made by leaving with the administrator of the board a copy of the notice and any accompanying documents and by sending to the architect by certified mail an attested copy, with an endorsement on the copy of the service upon the administrator, addressed to the architect at his last known address.

(B) The return receipt for the certified mail must be attached to and made a part of the return of service of the notice by the board. The chairman of the board before which there was pending a proceeding in which notice has been given, as provided in this section, may order a continuance as may be necessary to afford the architect reasonable opportunity to appear and defend. The administrator shall keep a record of the day of the service of the notice and any accompanying documents.

SECTION 40-3-320. Issuance of building permits.

The building official or other authority charged with the responsibility of issuing building or other similar permits of any county, municipality, or other subdivision, before issuing the permit, must be in possession of a sealed set of plans and specifications for which the seal of a registered architect is required and to verify that the architect who sealed the architectural plans and specifications is an architect registered in South Carolina.

SECTION 40-3-330. Severability.

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SOUTH CAROLINA
BOARD OF ARCHITECTURAL EXAMINERS

Division of Professional and Occupational Licensing Department of
Labor, Licensing and Regulation



Architectural Statutes and Regulations
CHAPTER 11

Statutes Revised June 2008
Regulations Revised June 2010

South Carolina Code of Regulations

CHAPTER 11. DEPARTMENT OF LABOR, LICENSING AND REGULATION-- STATE BOARD OF ARCHITECTURAL EXAMINERS

(Statutory Authority: 1976 Code Sections 40-3-60 and 40-1-70)

11-1. Definitions.

Definitions found in Section 40-3-20 apply to this chapter.

- (1) "IDP" means the Intern Development Program established by the National Council of Architectural Registration Boards.
- (2) "NCARB" means the National Council of Architectural Registration Boards.
- (3) "NAAB" means the National Architectural Accrediting Board.
- (4) "A.R.E." means the Architect Registration Examination.
- (5) "Continuing Education Hour" means one (1) contact hour of participation in a continuing education activity.
- (6) "Contact hour" means a minimum of fifty (50) minutes of instruction.

11-2. Officers.

A. Officers of this Board shall be chairman, vice-chairman, and secretary and shall be elected annually. The chairman shall exercise general supervision of the Board's affairs, except such as are placed under the Director of the Department of Labor, Licensing and Regulation, and shall preside at all meetings of the Board when present. The vice-chairman shall possess all the powers and perform all the duties of the chairman in the event of the absence, disability, refusal or failure to act of the chairman. The secretary shall act as its recording secretary; cause written minutes of every meeting of this Board to be kept in the Book of Minutes; affix the Board's Seal to such instruments as require it; and sign all instruments and matters that require attest or approval of this Board.

B. No members may serve more than two (2) consecutive one-year terms in the office of chairman or vice-chairman, but election to fill an unexpired term shall not bar the serving of two (2) succeeding terms. A member must have served one (1) calendar year on the Board to be eligible for the office of chairman and vice-chairman.

11-3. Meetings.

Notice of all meetings shall be distributed to each member at least five (5) days in advance of such meeting, giving time, place, and general purpose of the meeting. The Annual meeting shall be held within ninety (90) days of the end of the fiscal year. Public notice of the meetings shall be made in accordance with the Freedom of Information Act.

11-4. Seal of the Board.

The Seal of the Board shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle of 1 3/16 inches in diameter, in which there shall be the Seal of South Carolina. In the annular space between the circle and the outside of the Seal there shall be the following inscription: "Seal of South Carolina Board of Architectural Examiners".

11-5. Applications and Fees.

A. All applications must be accompanied by an application fee in the form of a check or money order made payable to South Carolina Board of Architectural Examiners. Applications will be reviewed by the Board within ninety (90) days of receipt. If after review by the Board an application is approved, the applicant shall be advised in writing.

B. The Board may charge the following fees:

- Application Fee
- Individuals Not to exceed \$150
- Firms Not to exceed \$150
- Examination Not to exceed \$150
- Annual fee Not to exceed \$150
- Renewal Fees - Individuals
- In-state Renewal Fee (annual) Not to exceed \$150
- Out-of-state Renewal Fee (annual) Not to exceed \$200
- Late Renewal Penalty Fees Not to exceed \$200
- Renewal Fees - Firms Not to exceed \$150
- Late Renewal Penalty Fees Not to exceed \$200
- Miscellaneous
- File Transfer Not to exceed \$ 50
- Duplicate Wall Certificate Not to exceed \$ 50
- Roster Not to exceed \$ 50

11-6. Registration by Examination.

A. Applicants must have completed a professional degree in architecture from a school or college program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) as set forth in Section 40-3-230 and must have completed all requirements of the Intern Development Program (IDP) prior to licensure. Applicants may begin taking the Architect Registration Examination prior to completion of IDP but may not be licensed until evidence of completion of all training requirements is submitted to the Board.

(1) Education. An official school transcript shall serve as evidence of attainment of a professional degree in architecture from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB).

(2) Experience. Only a verified Council Record issued by the National Council of Architectural Registration Boards (NCARB) will be accepted as evidence of completion of all training requirements established for the Intern Development Program (IDP).

(3) Examination. The National Council of Architectural Registration Boards (NCARB) Architect Registration Examination (A.R.E.) will be administered to all qualified candidates for initial architectural registration in a manner and place prescribed by NCARB or the Board. Candidates must comply with all NCARB requirements. Examinees must pay all applicable examination fees. Examinees will not have access to the NCARB examinations, answers, or other related documents for reviewing, copying, or other purpose.

B. Applicants for registration by examination who pass the A.R.E. will be notified accordingly. Once a candidate satisfies all licensure requirements as set forth in Section 40-3-230, he or she will be issued a license to practice architecture in South Carolina during the current licensure period.

11-7. Registration by Reciprocity.

A. Any individual holding a current, active, and unrestricted license for the practice of architecture from another state or territory and holding a certificate of qualification issued by the National Council of Architectural Registration Boards (NCARB) may, upon application and within the discretion of the Board, be licensed without written examination.

B. Applicants who receive favorable action will be notified accordingly, and upon payment of the fee as determined by the Board, will be issued a license to practice architecture in South Carolina during the current licensure period.

11-8. Renewals.

A. Certificates of Registration issued to individuals expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and by reporting completion of the required continuing education hours. Certificates shall become invalid unless renewed.

B. Certificates of Authorization issued to firms expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and shall become invalid unless renewed.

C. Lapsed Certificates may be reinstated by the Board at any time during the remainder of the licensure period on demonstration of qualification and payment of the renewal fee plus late penalties. In case of failure to reinstate by the end of the licensure period, the Certificate cannot be reissued except by a new application accompanied by the application fee and approval by the Board.

11-8.1. Continuing Education.

A. These requirements shall apply to every South Carolina registered architect as a condition for renewal of registration.

B. Exemptions: A registrant may be exempt from the continuing education requirements for one of the following reasons:

- (1) A first-time new registrant by examination or reciprocity will be exempt for the first renewal.
- (2) A registrant is exempt from completing continuing education requirements for his profession while serving on active military duty.
- (3) Hardship cases may be considered on an individual basis.
- (4) Emeritus architects will be exempt from the continuing education requirements.

C. Requirements.

(1) Each South Carolina Registered architect shall complete a minimum of twenty-four (24) continuing education hours each biennial licensure period in topics related to safeguarding life, health, property and promoting public welfare.

(2) Each registrant shall submit, on a form provided by the board, a signed affidavit attesting to the fulfillment of continuing education requirements during the preceding period. Carry-over of a maximum of twenty-four (24) continuing education hours per renewal period is permitted.

(3) Each affidavit may be subject to audit for verification of compliance with requirements. Registrants shall retain proof of fulfillment of requirements for a period of two (2) years after submission in the event the affidavit is selected for audit. Registrants must comply with audit deadlines and requirements.

(4) The Board may disallow claimed credit for continuing education hours. The registrant shall have one hundred eighty (180) calendar days after notification of disallowance of credit to substantiate the original claim or earn other continuing education credit which fulfills minimum requirements.

D. Noncompliance and Sanctions. Failure to fulfill the continuing education requirements, to file the required report, properly completed and signed, or to comply with audit and verification requests shall be considered a violation of the Architectural Registration Law.

11-9. Duplicate Certificates.

A lost or destroyed Certificate may be replaced upon written request accompanied by the appropriate fee. Such Certificate shall bear the same date and number as the original and shall be marked "duplicate."

11-10. Practice of Firms.

A. A firm engaged in the practice of architecture in South Carolina must employ one (1) or more persons registered to practice architecture in South Carolina who are in full authority and responsible charge of the firm's architectural practice. Persons in full authority and responsible charge shall mean regularly employed persons who are in unrestricted, unchecked, and unqualified command of, and legally accountable for, the actions of such architectural practice.

B. An architect registered in South Carolina shall be responsible for complying with these regulations as they may apply to any association or joint venture with another architect or architects.

C. Each office maintained for the preparation of drawings, specifications, reports, and other professional work shall have an architect duly registered with this Board, in full authority and responsible charge, having direct knowledge and supervisory control of such work.

D. Each firm shall provide and maintain the current mailing address and physical address of its main office.

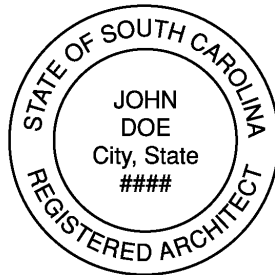
11-11. Seals.

A. The seal and signature of the architect in responsible charge and the architectural firm's seal shall appear on all architectural documents to be filed for public record and shall be construed to obligate the architect and the firm. A firm seal alone is insufficient; documents shall be signed and sealed by the responsible architect. Record documents used for obtaining building permits shall be so signed. The signing and sealing of the index sheet(s) or the title page of specifications shall be considered adequate.

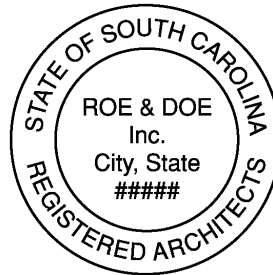
B. An architect shall not affix, or permit to be affixed, the architect's seal or name to any plans, specifications, drawings, or other related documents which were not prepared by the architect or under the architect's direct responsible charge. Architects shall not use their seal or perform any other service as an architect unless holding at the time a current Certificate of Registration.

C. Description of Registrant's Seal. The seal shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle 1 3/16 inches in diameter; in the annular space between the circle and the outside of the seal shall be the words "State of South Carolina" at the top and "Registered Architect" at the bottom. The name of only one (1) architect, business location, and registration number shall be placed within the inner circle.

D. Description of Firm Seals. The seal shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle 1 3/16 inches in diameter; in the annular space between the circle and the outside of the seal shall be the words "State of South Carolina" at the top and "Registered Architects" at the bottom. The name, business location, and license number of the firm shall be placed within the inner circle.



(INDIVIDUAL)



(FIRM)

E. An electronic seal and signature are permitted to be used in lieu of an original seal and signature when the following criteria, and all other requirements of this section, are met:

- (1) It is a unique identification of the professional;
- (2) It is verifiable;
- (3) It is under the professional's direct and sole control;
- (4) It is linked to a document in such a manner that changes are readily determined and visually displayed if any data contained in the document file was changed subsequent to the electronic seal and signature having been affixed to the document, and
- (5) Changes to the document after affixing the electronic seal and signature shall cause the electronic seal and signature to be removed or altered in such a way as to invalidate the electronic seal and signature;
- (6) In addition, once the electronic seal and signature are applied to the document, the document shall be available in a view only format if the document is to be electronically transmitted;
- (7) The graphic image of the electronic seal and signature shall be readily available and produced in a manner acceptable to the board. It shall contain the same words and shall have substantially the same graphic appearance and size as required above when the image of the electronically transmitted document is viewed at the same time as the document in its original form.
- (8) The graphic display of the seal shall be in compliance with state law.

11-12. Code of Professional Ethics.

An architect or firm shall not engage in dishonest practice, unprofessional conduct, or incompetent practice.

A. Conflict of Interest.

(1) When conditions of compensation are submitted in a proposal for a study, pre-design, or preliminary design service, where future opportunity for additional work on the project is also available to the offerer, such conditions must be consistent and representative of the real cost of services to be performed.

(2) An architect or firm shall not accept compensation for services from more than one (1) party on a project unless the circumstances are fully disclosed and agreed to (such disclosure and agreement to be in writing) by all interested parties.

(3) If an architect or firm has any business association or direct or indirect financial interest which is substantial enough to influence judgments in connection with the performance of professional services, the architect or firm shall fully disclose in writing to the client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect or firm will either terminate such association or interest, or withdraw from the commission or employment.

(4) An architect or firm shall not solicit or accept compensation from materials or equipment suppliers in return for specifying or endorsing their products.

(5) When acting as the interpreter of building contract documents and the judge of contract performance, the architect or firm shall render decisions impartially, favoring neither party to the contract.

B. Full Disclosure.

(1) An architect or firm making public statements on architectural questions shall disclose when being compensated for making such statements.

(2) An architect or firm shall be accurate in representing to a prospective or existing client or employer the qualifications and the scope of responsibility in connection with work for which credit is claimed.

(3) If in the course of work on a project, the architect or firm becomes aware of a decision taken by the employer or client, against the architect's or firm's advice, which violates applicable state or municipal building laws and regulations and which will materially affect adversely the safety to the public of the finished project, the architect or firm shall:

(a) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations; and

(b) refuse to consent to the decision; and

(c) terminate services with reference to the project in circumstances where the architect or firm reasonably believes that other such decisions will be taken notwithstanding the architect's or firm's objections.

(4) On a project where a building permit has been issued and the sealing architect and the firm of record have not been engaged to perform at least minimum construction administration services, as defined in subsection (5) below, the sealing architect and firm must report to the permitting authority and the building owner that he and the firm have not been so engaged.

(5) The minimum construction administration services expected of the sealing architect and firm deemed necessary to protect the health, safety, and welfare of the public shall be periodic site observations of the construction progress and quality, review of contractor submittal data and drawings, and reporting to the building official and owner any violations of codes or substantial deviations from the contract documents which the architect observed.

(6) An architect or firm shall not deliberately make a false statement or fail deliberately to disclose a fact requested by the Board.

(7) An architect or firm shall not assist the application for registration of a person known by the architect or firm to be unqualified in respect to education, training, experience, or character.

(8) An architect or firm possessing knowledge of a violation of these rules by another architect or firm shall report such knowledge to the Board.

(9) An architect or firm shall cooperate fully upon request in matters pertaining to any investigation initiated by the Board.

C. Compliance with Laws.

(1) An architect or firm shall not violate any state or federal criminal or civil law, rule, or regulation.

(2) An architect or firm shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect or firm is interested.

(3) An architect or firm shall comply with the registration laws, rules, and regulations governing the practice of architecture in this State and in any other jurisdiction.

(4) An architect or firm shall not assist or aid any unlicensed person or firm in the unauthorized practice of architecture.

(5) No architect or firm shall be entitled to registration within this State who has been convicted of a felony or a crime of moral turpitude unless suitable evidence of reform is presented to the Board.

D. Professional Conduct.

(1) An architect or firm shall not sign or seal drawings, specifications, reports, or other professional work for which the architect or firm does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of portions of such professional work prepared by the architect's, or firm's consultants,

registered under this or another professional registration law of this jurisdiction, the architect or firm may sign or seal that portion of the professional work if the architect or firm has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.

(2) An architect or firm shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect or firm is interested.

(3) An architect or firm shall not engage in conduct involving fraud or wanton disregard of the rights of others.

(4) An architect or firm shall not act in any manner so as to mislead a client or the general public or so as to misrepresent its competence or qualifications.

E. Competence.

(1) An architect or firm shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects and firms in good standing in South Carolina.

(2) An architect or firm shall take into account all applicable state and municipal building laws and regulations. While an architect or firm may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect or firm shall not design a project in violation of such laws and regulations.

(3) An architect or firm, together with those whom the architect or firm may engage as consultants, shall undertake to perform professional services only when qualified by education, training, and experience in the specific technical areas involved.

11-13. Manner of Discipline.

A. Any architect or firm found guilty of dishonest practice, unprofessional conduct, or incompetent practice shall be disciplined in accordance with Section 40-1-120, Section 40-3-110, Section 40-3-115, and Section 40-3-120.

B. Any architect or firm whose license has been revoked or suspended by the Board shall promptly notify, or cause to be notified, all clients being represented in pending matters of the revocation or suspension and their inability to act as the architect and shall advise said clients to seek the assistance of another architect of the client's own choice. The notice must be sent by registered or certified mail with return receipt requested.

11-14. Reinstatement Procedures.

A. An architect or firm whose authorization to practice architecture has been suspended who wishes to be reinstated may file with the Board a petition setting forth:

(1) the mailing address and physical address where the architect resides at the time of filing the petition, and the mailing address and physical address where the firm proposes to maintain an office if reinstated; and

(2) suitable evidence of reform to establish clear and convincing proof that he or the firm has been rehabilitated; and

(3) suitable evidence that he or the firm has complied fully with all provisions set forth in the original Order.

B. No application for reinstatement for practice shall be considered by the Board until evidence is submitted that all conditions of the Order have been met.

C. In any Order of reinstatement, the Board may direct that the architect or architectural firm limit professional practice to certain areas of the profession; work under the supervision of another architect or firm; require reports at intervals; or any other reasonable requirement which will ensure the protection of the public health, safety, and welfare.

11-15, 11-16. Repealed in State Register Volume 23, Issue No. 5, eff May 28, 1999.

11-15, 11-16. Repealed in State Register Volume 23, Issue No. 5, eff May 28, 1999.

11-17. Repealed by State Register Volume 17, Issue No. 5, Part 1, eff May 28, 1993.

11-18, 11-19. Repealed by State Register Volume 23, Issue No. 5, eff May 28, 1999.

11-18, 11-19. Repealed by State Register Volume 23, Issue No. 5, eff May 28, 1999.

SOUTH CAROLINA

Department of Labor, Licensing and Regulation



Code of Laws Title 40, Chapter 1 Professions and Occupations

Title 40 - Professions and Occupations
CHAPTER 1.
PROFESSIONS AND OCCUPATIONS
ARTICLE 1.
BOARD REGULATION OF PROFESSIONS AND OCCUPATIONS

SECTION 40-1-10. Extent of regulation.

(A) The right of a person to engage in a lawful profession, trade, or occupation of choice is clearly protected by both the Constitution of the United States and the Constitution of the State of South Carolina. The State cannot abridge this right except as a reasonable exercise of its police powers when it is clearly found that abridgement is necessary for the preservation of the health, safety, and welfare of the public.

(B) No statute or regulation may be imposed under this article upon a profession or occupation except for the exclusive purpose of protecting the public interest when the:

(1) unregulated practice of the profession or occupation can harm or endanger the health, safety, or welfare of the public and the potential for harm is recognizable and not remote or dependent upon tenuous argument;

(2) practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work or labor;

(3) practice of the profession or occupation requires specialized skill or training and the public needs and will benefit by assurances of initial and continuing professional and occupational ability; and

(4) public is not effectively protected by other means.

(C) If the General Assembly determines that a particular profession or occupation should be regulated or that a different degree of regulation should be imposed on the regulated profession or occupation, it shall consider the following degrees of regulation in the order provided and only shall regulate the profession or occupation to the degree necessary to fulfill the need for regulation:

(1) If existing common law and statutory causes of civil action or criminal prohibitions are not sufficient to eradicate existing harm or prevent potential harm, the General Assembly first may consider making statutory changes to provide stricter causes for civil action and criminal prosecution.

(2) If it is necessary to determine the impact of the operation of a profession or occupation on the public, the General Assembly may consider implementing a system of registration.

(3) If the public requires a substantial basis for relying on the professional services of the practitioner, the General Assembly may consider implementing a system of certification.

(4) If adequate regulation cannot be achieved by means less than licensing, the General Assembly may establish licensing procedures.

(D) In determining the proper degree of regulation, if any, the General Assembly shall determine:

(1) whether the practitioner, if unregulated, performs a service to individuals involving a hazard to the public health, safety, or welfare;

- (2) what the opinion of a substantial portion of the people who do not practice the particular profession, trade, or occupation is on the need for regulation;
- (3) the number of states which have regulatory provisions similar to those proposed;
- (4) whether there is sufficient demand for the service for which there is no regulated substitute, and this service is required by a substantial portion of the population;
- (5) whether the profession or occupation requires high standards of public responsibility, character, and performance of each individual engaged in the profession or occupation, as evidenced by established and published codes of ethics;
- (6) whether the profession or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that the practitioner has met minimum qualifications;
- (7) whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous, or irresponsible members of the profession or occupation;
- (8) whether current laws which pertain to public health, safety, and welfare generally are ineffective or inadequate;
- (9) whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety, and welfare;
- (10) whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.

SECTION 40-1-20. Definitions.

As used in this title unless the context requires a different meaning:

- (1) "Administrator" means the individual to whom the director has delegated authority to administer the programs of a specific board or of a professional or occupational group for which the department has regulatory authority or has delegated authority to administer the programs of a specific board;
- (2) "Authorization to practice" or "Practice authorization" means the approval to practice the specified profession, engage in the specified occupation, or use a title protected under this article, which has been granted by the applicable board. This authorization is granted in the form of a license, permit, certification, or registration;
- (3) "Board" or "Commission" means the group of individuals charged by law with the responsibility of licensing or otherwise regulating an occupation or profession within the State. Except as otherwise indicated, "board" is used in this article to refer to both boards and commissions;
- (4) "Department" means the Department of Labor, Licensing and Regulation;
- (5) "Director" means the Director of the Department of Labor, Licensing and Regulation or the director's official designee;

(6) "Licensee" means a person granted an authorization to practice pursuant to this article and refers to a person holding a license, permit, certification, or registration granted pursuant to this article;

(7) "Licensing act" means the individual statute or regulations, or both, of each regulated profession or occupation which include, but are not limited to, board governance, the qualifications and requirements for authorization to practice, prohibitions, and disciplinary procedures;

(8) "Person" means an individual, partnership, or corporation;

(9) "Profession" or "occupation" means a profession or occupation regulated or administered, or both, by the department pursuant to this article.

SECTION 40-1-30. Authorization to practice.

It is unlawful for a person to engage in a profession or occupation regulated by a board or commission administered by the Department of Labor, Licensing and Regulation without holding a valid authorization to practice as required by statute or regulation.

An authorization to practice issued pursuant to this title is valid for up to two years and is renewable on renewal dates as established by the Director of Labor, Licensing and Regulation with the consent of each applicable regulatory board.

SECTION 40-1-40. Purpose of Division; domain.

(A) The purpose of the Division of Professional and Occupational Licensing, South Carolina Department of Labor, Licensing and Regulation, is to protect the public through the regulation of professional and occupational licensees and the administration of boards charged with the regulation of professional and occupational practitioners.

(B) The following boards and the professions and occupations they license or otherwise regulate must be administered by the Department of Labor, Licensing and Regulation pursuant to this article:

- Board of Accountancy
- Board of Architectural Examiners
- Athletic Commission
- Auctioneers Commission
- Board of Barber Examiners
- Accessibility Committee of the Building Codes Council
- Building Code Council
- Board of Chiropractic Examiners
- Contractors' Licensing Board
- Board of Cosmetology
- Board of Dentistry
- Engineers and Land Surveyors Board
- Environmental Certification Board
- Board of Registration for Foresters
- Board of Funeral Service
- Board of Registration for Geologists
- Manufactured Housing Board
- Board of Medical Examiners
- Modular Buildings Board of Appeals
- Board of Nursing

- Long Term Health Care Administrators Board
- Board of Occupational Therapy
- Board of Examiners in Opticianry
- Board of Examiners in Optometry
- Board of Pharmacy
- Board of Physical Therapy Examiners
- Pilotage Commission
- Board of Podiatry Examiners
- Board of Examiners for Licensure of Professional Counselors and Marital and Family Therapists
- Board of Examiners in Psychology
- Board of Pyrotechnic Safety
- Real Estate Appraisers Board
- Real Estate Commission
- Residential Builders Commission
- Board of Social Work Examiners
- Board of Examiners in Speech-Language Pathology and Audiology
- Board of Veterinary Medical Examiners

(C) Each regulatory board within the department is a separate board.

(D) The Department of Labor, Licensing and Regulation is a member of the Governor's executive cabinet and must be headed by a director who must be appointed by the Governor with the advice and consent of the Senate, subject to removal from office by the Governor pursuant to Section 1-3-240(B). The director shall supervise the department under the direction and control of the Governor and shall exercise other powers and perform other duties as the Governor requires.

SECTION 40-1-45. Public and consumer members of boards and panels.

The department, in consultation with currently serving board members, the Office of the Governor, members of professional and industry associations, and the general public shall encourage public and consumer membership and participation on all boards and panels associated with the department. Public and consumer membership may not include current or former, active or inactive members of the profession or occupation being regulated. Public and consumer members have the same rights and responsibilities as professionally or occupationally-related board members and shall participate fully in all discussions, deliberations, decisions, and votes of the board or panel on which they serve unless otherwise prohibited by statute or regulation.

SECTION 40-1-50. Authority of Department; record of board proceedings; roster of licensees; fee structures.

(A) The department is responsible for all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the boards and commissions enumerated in Section 40-1-40.

The director shall employ and supervise personnel necessary to effectuate the provisions of this article for each board provided for in Section 40-1-40. When hiring a person charged with evaluating or administering professional qualifications or licensing standards, the director must select from a list of three candidates submitted by the appropriate licensing board. However, a candidate whose name is submitted to the director must be chosen from a list of all candidates found to be qualified by the Human Management Office of the department. The authority to remove an employee of the department is vested with the Director of the Department of Labor, Licensing and Regulation.

The director shall establish compensation for personnel assigned to the boards as the director considers necessary and appropriate for the administration of this article. Compensation and necessary expenses incurred in the performance of duties by personnel assigned to the board must be paid as an expense of the board in the administration of this article.

The director shall enter into contracts and agreements the director considers necessary or incidental to carry out the provisions of this article to provide for all services required by each board.

Board members must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members of the board. The director, within the limits set by the Comptroller General, shall establish reimbursement standards for travel and other expenses incurred by a board member in the performance of the board member's official duties. Compensation and reimbursements paid to board members under this subsection must be paid as an expense of the board in the administration of this article and the board's chapter and must be paid from the fees received by the board pursuant to the provisions of this article or in a manner prescribed by the Department of Labor, Licensing and Regulation.

The director shall maintain a separate account for funds collected on behalf of a board and shall indicate the expenses allotted to the board. The director shall adjust fees for revenue-funded boards in accordance with Section 40-1-50 (D).

The director annually shall prepare a report to the Governor and the General Assembly indicating those regulated trades, occupations, and professions that do not meet the spirit and intent of Section 40-1-10.

The director may perform any additional administrative functions requested by the boards.

(B) The department shall keep a record of the proceedings of each board and shall maintain a registry of all applications for licensure, permitting, certification, and registration. The registry shall include the name, age, and last known address of each applicant, the place of business of the applicant, the education, experience, and other qualifications of the applicant, type of examination required, whether or not an authorization to practice was granted, the date of the action of the department, and other information considered necessary by the board.

Except as otherwise required by law, the record of a board's proceedings and its registry of applicants must be open to public inspection, and a copy of the registry must be provided upon request and payment of a fee.

Records of a board and its registry are prima facie evidence of its proceedings, and a copy certified by the administrator or the director under seal is admissible as evidence with the same force and effect as the original.

(C) The department may prepare and publish a roster for each respective board containing the names and places of business of persons licensed under this article. A copy of the roster must be provided upon request and upon payment of a fee which may not exceed the cost of printing and distribution of the roster.

(D) Initial fees for revenue-funded boards must be established by each board and shall serve as the base for necessary administrative adjustments. Each board, on at least a biennial basis, shall provide the director with a statement of anticipated expenditures, program changes, and other information as may be used in determining fees for the next biennial period.

Fees for revenue-funded boards must be assessed, collected, and adjusted on behalf of each board by the department in accordance with this article. Fees may be adjusted biennially to ensure that they are sufficient

but not excessive to cover expenses including the total of the direct and indirect costs to the State for the operations of each respective board. Fees must be deposited in accounts established for each respective board.

The following steps must be used in the development and analysis of fee structures:

- (1) Determine current financial position of the program. Each month, the department's administrative section shall prepare statements reflecting monthly revenue collection activity and related program expenses for each board program. The financial standing of a board program must be reviewed each biennium for boards that renew biennially, annually for boards that renew on an annual basis, and more frequently if indicators evidence a significant financial fluctuation of more than ten percent variance between a program's revenue and related expenses;
- (2) Project future activity and related costs of the program. By reviewing historical volume information and adjusting trends to reflect changes in the industry, changes in the program, indicators from the board members to the staff, and general economic indicators, project program activity including, but not limited to, renewals and new applicants for the upcoming two to three years. Based on these population projections, forecast program revenues using the current fee structure. With input from the board and the staff, analyze related program direct board costs for the upcoming two to three years, based on historical trends, changes in program requirements, changes to expenditure centers, and changes in staffing requirements. To these direct costs, add the program's proportionate share of other related costs of the program including, but not limited to, administration of exams, agency administration, and information systems to arrive at the total program cost;
- (3) Determine the projected financial position of the program, propose changes where necessary, and compare the total projected revenue at the current fees to the total projected costs of the program over the next two to three years. If the current fees and the projected program activity do not support the projected program's expenses, develop alternative fee structures which would ensure the program's continuing financial stability as required by law;
- (4) Present findings to the director and staff for discussion, revision, evaluation, and adoption. While developing fee analyses, maintain communications with staff and agency management to ensure all necessary factors are evaluated and cost savings, efficiencies, and alternative cost reduction scenarios are pursued. Present fee analyses to board staff and management for discussion and revision where necessary. Propose alternatives to the director for consideration when preparing to adopt proposed fee schedules to achieve a structure sufficient to support the program.

Fees for a board funded by general appropriations must be set by the General Assembly and deposited into the general fund. All fees are nonrefundable.

(E) Where appropriate, the director shall adopt the necessary procedures to implement the biennial renewal of authorizations to practice in a manner as to ensure that the number of renewals is reasonably evenly distributed throughout each two-year period. During any transition, fees must be proportionate to the biennial fee.

(F) A board may elect to delegate to the department the authority to issue an authorization to practice to an applicant whose proof of qualifications falls within established guidelines set by the board.

A board may elect to delegate to the department the authority to deny an authorization to practice to an applicant who has committed an act that would be grounds for disciplinary action under this article or the licensing act of the board, who has failed to comply with a final order of a board, or who has failed to demonstrate the basic qualifications or standards for practice authorization contained in the board's licensing act. The applicant may appeal the denial to the board which has final regulatory decision-making authority for reconsideration. The board may uphold the denial, order issuance of the authorization to

practice, or order issuance of the authorization to practice upon conditions set by the board. If the administrative decision is upheld, the applicant may reapply at the end of a twelve-month period.

(G) The department shall suspend the practice authorization issued by a board administered by this article to a person who submits a check, money draft, or similar instrument for payment of a fee which is not honored by the financial institution named. The suspension becomes effective ten days following delivery by certified mail of written notice of the dishonor and the impending suspension to the person's address. Upon notification of suspension, the person may reinstate the authorization to practice upon payment of the fee and penalties required under statute or regulation. This suspension is exempt from the Administrative Procedures Act.

(H) The department shall revoke the authorization to practice of a person found to be in violation of the Family Independence Act as it relates to child support enforcement requirements.

(I) The department may prepare an annual report for submission to the Governor.

It is the duty of the director to notify and seek approval of the board or commission at least thirty days in advance of filing with Legislative Council as required by Section 1-23-30 of any proposed changes in any rules or regulations which may affect the practice or service of the respective licensing board or commission.

SECTION 40-1-60. Officers of boards; meetings.

(A) A board annually shall elect from among its members a chairman, vice-chairman, and other officers as the board determines necessary. The board shall adopt rules and procedures reasonably necessary for the performance of its duties and the governance of its operations and proceedings.

(B) A board shall meet at least two times a year and at other times upon the call of the chairman or a majority of the board.

(C) A majority of the members of a board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum.

(D) A board member is required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the board as provided for in Section 1-3-240.

SECTION 40-1-70. Powers and duties of boards.

The powers and duties of regulatory boards include, but are not limited to:

- (1) determining the eligibility of applicants for examination and licensure;
- (2) examining applicants for licensure including, but not limited to:
 - (a) prescribing the subjects, character, and manner of licensing examinations;
 - (b) preparing, administering, and grading the examination or assisting in the selection of a contractor for the preparation, administration, or grading of the examination;

- (3) establishing criteria for issuing, renewing, and reactivating the authorizations to practice of qualified applicants, including the issuance of active or permanent, temporary, limited, and inactive licenses, or other categories as may be created;
- (4) adopting a code of professional ethics appropriate to the profession or occupation which it licenses or regulates;
- (5) evaluating and approving continuing education course hours and programs;
- (6) conducting hearings on alleged violations of this article and regulations promulgated under this article;
- (7) resolving consumer complaints, where appropriate and possible;
- (8) disciplining persons licensed under this article in a manner provided for in this article;
- (9) promulgating regulations which have been submitted to the director, at least thirty days in advance of filing with Legislative Council as required by Section 1-23-30.

SECTION 40-1-75. Continuing education exemption for persons serving on active military duty.

A person whose profession or occupation is regulated by this title is exempt from completing continuing education requirements for his profession or occupation while serving on active military duty.

SECTION 40-1-80. Investigations.

(A) If the director has reason to believe that a person has violated a provision of this article or a regulation promulgated under this article or the licensing act or regulation of a board or that a licensee has become unfit to practice the profession or occupation or if a person files a written complaint with the board or the director charging a person with the violation of a provision of this article or a regulation promulgated under this article, the director may initiate an investigation.

(B) In conducting the investigation, the director may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation including, but not limited to, the existence, description, nature, custody, condition, and location of books, documents, or other tangible items and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions propounded by the director, the director may apply to an administrative law judge for an order requiring the person to comply.

SECTION 40-1-90. Disciplinary action proceedings.

(A) The results of an investigation must be presented to the board. If from these results it appears that a violation has occurred or that a licensee has become unfit to practice the profession or occupation, the board, in accordance with the Administrative Procedures Act, may take disciplinary action authorized by Section 40-1-120. No disciplinary action may be taken unless the matter is presented to and voted upon by the board. The board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under this section.

(B) For the purpose of a proceeding under this article, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to an administrative law judge for an order requiring the person to comply with the subpoena.

SECTION 40-1-100. Equitable relief; immunity.

(A) When the board has reason to believe that a person is violating or intends to violate a provision of this article or a regulation promulgated under this article, in addition to all other remedies, it may order the person immediately to cease and desist from engaging in the conduct. If the person is practicing a profession or occupation without being licensed under this article, is violating a board order, a provision of this article, or a regulation promulgated under this article, the board also may apply, in accordance with the rules of the Administrative Law Judge Division, to an administrative law judge for a temporary restraining order.

No board member or the Director of the Department of Labor, Licensing and Regulation or another employee of the department may be held liable for damages resulting from a wrongful temporary restraining order.

(B) The board may seek from an administrative law judge other equitable relief to enjoin the violation or intended violation of this article or a regulation promulgated under this article.

SECTION 40-1-110. Additional grounds for disciplinary action.

In addition to other grounds contained in this article and the respective board's chapter:

A board may cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who:

- (a) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure under this article;
- (b) has had a license to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;
- (c) has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;
- (d) has intentionally used a fraudulent statement in a document connected with the practice of the individual's profession or occupation;
- (e) has obtained fees or assisted in obtaining fees under fraudulent circumstances;
- (f) has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;
- (g) lacks the professional or ethical competence to practice the profession or occupation;
- (h) has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude;
- (i) has practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation;
- (j) has sustained a physical or mental disability which renders further practice dangerous to the public;
- (k) violates a provision of this article or of a regulation promulgated under this article;

(l) violates the code of professional ethics adopted by the applicable licensing board for the regulated profession or occupation or adopted by the department with the advice of the advisory panel for the professions and occupations it directly regulates.

Each incident is considered a separate violation.

SECTION 40-1-115. Term of board jurisdiction.

A board has jurisdiction over the actions committed or omitted by current and former licensees during the entire period of licensure. The board has jurisdiction to act on any matter which arises during the practice authorization period.

SECTION 40-1-120. Sanctions.

(A) Upon a determination by a board that one or more of the grounds for discipline exists, in addition to the actions the board is authorized to take pursuant to its respective licensing act, the board may:

(1) issue a public reprimand;

(2) impose a fine not to exceed five hundred dollars unless otherwise specified by statute or regulation of the board;

(3) place a licensee on probation or restrict or suspend the individual's license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension including, but not limited to, satisfactory completion of additional education, of a supervisory period, or of continuing education programs;

(4) permanently revoke the license.

(B) A decision by a board to discipline a licensee as authorized under this section must be by a majority vote of the total membership of the board serving at the time the vote is taken.

(C) A final order of a board disciplining a licensee under this section is public information.

(D) Upon a determination by a board that discipline is not appropriate, the board may issue a nondisciplinary letter of caution.

(E) A board may establish a procedure to allow a licensee who has been issued a public reprimand to petition the board for expungement of the reprimand from the licensee's record.

SECTION 40-1-130. Board's authority to sanction.

A board may deny an authorization to practice to an applicant who has committed an act that would be grounds for disciplinary action under this article or the licensing act of the respective board. A board must deny authorization to practice to an applicant who has failed to demonstrate the qualifications or standards for licensure contained in the respective board's licensing act. The applicant shall demonstrate to the satisfaction of the board that the applicant meets all the requirements for the issuance of a license.

SECTION 40-1-140. Effect of prior criminal convictions.

A person may not be refused an authorization to practice, pursue, or engage in a regulated profession or occupation solely because of a prior criminal conviction unless the criminal conviction directly relates to

the profession or occupation for which the authorization to practice is sought. However, a board may refuse an authorization to practice if, based upon all information available, including the applicant's record of prior convictions, it finds that the applicant is unfit or unsuited to engage in the profession or occupation.

SECTION 40-1-150. Voluntary surrender of authorization to practice.

A licensee who is under investigation for a violation provided for in Section 40-1-110 or the licensing act of the applicable board for which disciplinary action may be taken may voluntarily surrender authorization to practice to the board. The voluntary surrender invalidates the authorization to practice at the time of its relinquishment, and no person whose authorization to practice is surrendered voluntarily may practice the profession or occupation unless the board, by a majority vote, reinstates the license. A person practicing a regulated profession or occupation during the period of voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this article. The surrender of an authorization to practice may not be considered an admission of guilt in a proceeding under this article and does not preclude the board from taking disciplinary action against the licensee as provided for in this article or the board's licensing act including, but not limited to, imposing conditions that must be met before the board reinstates the license.

SECTION 40-1-160. Appeal.

A person aggrieved by a final action of a board may appeal the decision to the Administrative Law Judge Division in accordance with the Administrative Procedures Act and the rules of the Administrative Law Judge Division. Service of a petition requesting a review does not stay the board's decision pending completion of the appellate process.

SECTION 40-1-170. Costs of investigation and prosecution.

(A) In an order issued in resolution of a disciplinary proceeding before a board, a licensee found in violation of the applicable licensing act may be directed to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case in addition to other sanctions.

(B) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the director, or the director's designee, is prima facie evidence of reasonable costs.

(C) Failure to make timely payment in accordance with the order results in the collection of costs in accordance with Section 40-1-180.

(D) The board may conditionally renew or reinstate for a maximum of one year the license of an individual who demonstrates financial hardship and who enters into a formal agreement to reimburse the board within that one-year period for the unpaid costs.

(E) This section does not apply to a regulated profession or occupation if a specific provision in the applicable licensing act provides for recovery of costs in an administrative disciplinary proceeding.

SECTION 40-1-180. Failure to pay costs or fines; remittance of funds collected.

(A) All costs and fines imposed pursuant to this article and the respective boards' licensing acts are due and payable immediately upon imposition or at the time indicated by final order of the board. Unless the costs and fines are paid within sixty days after the order becomes final, the order becomes a judgment and may be filed and executed upon in the same manner as a judgment in the court of common pleas, and the board may collect costs and attorneys' fees incurred in executing the judgment. Interest at the legal rate accrues on the amount due from the date imposed until the date paid.

(B) All fines and costs collected under this section must be remitted by the department to the State Treasurer and deposited in a special fund established for the department to defray the administrative costs associated with investigations and hearings under this article.

SECTION 40-1-190. Privileged communications.

(A) A communication, whether oral or written, made by or on behalf of a person, to the director or board or a person designated by the director or board to investigate or hear matters relating to discipline of a licensee, whether by way of complaint or testimony, is privileged and no action or proceeding, civil or criminal, may be brought against the person, by or on whose behalf the communication is made, except upon proof that the communication was made with malice.

(B) Nothing in this article may be construed as prohibiting the respondent or the respondent's legal counsel from exercising the respondent's constitutional right of due process under the law or as prohibiting the respondent from normal access to the charges and evidence filed against the respondent as part of due process under the law.

(C) Notwithstanding the provisions of this section, a final order of a board disciplining a licensee is public information as provided for in Section 40-1-120.

SECTION 40-1-200. Unlawful practice.

A person who practices or offers to practice a regulated profession or occupation in this State in violation of this article or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than fifty thousand dollars.

SECTION 40-1-210. Civil proceedings before administrative law judge.

The department, in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Judge Division, in the name of the State, for injunctive relief against a person violating this article, a regulation promulgated under this article, or an order of the board. For each violation the administrative law judge may impose a fine of no more than ten thousand dollars.

SECTION 40-1-220. Severability.

If a provision of this article or the application of a provision of this article to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this statute which can be given effect without the invalid provision or application, and to this end the provisions of this statute are severable.